

REMARKS

Upon entry of the present Amendment-A the claims in the application are claims 1-20, of which claims 1 and 11 are independent. Claims 7-8 and 17-18 are withdrawn from consideration as a result of the Restriction Requirement of 12/12/05. Claims 1, 10, 11, and 20 are amended herein.

Applicant respectfully submits that the amendments are fully supported by the original disclosure. Applicant also respectfully submits that no new matter is introduced by way of the amendments.

The applicant's representative thanks the Examiner for her kind and helpful remarks during a telephone interview held on May 2, 2006. The Examiner's rejections under 35 USC 112, first paragraph, and the rejections under 35 USC 102 were discussed. In particular, the anticipatory rejections in view of Kishi et al. and Kohama et al. were discussed, and differences between the applicant's side cover and the cited references were presented to the Examiner. A first proposed amendment to claims 1 and 11, in which the side cover extends only between a lower side of the fuel tank and an upper side of the engine, and a second proposed amendment to claims 1 and 11, in which particulars of the shape of the side cover (convex and concave portions extend longitudinally over the longitudinal length of the side cover) were presented. No agreement was reached since the Examiner indicated that such limitations would require further search and consideration.

The above-identified Office Action has been reviewed, the references carefully considered, and the Examiner's comments carefully weighed. In view thereof, the present Amendment is submitted. It is contended that by the present amendment, all bases of rejection set forth in the Office Action have been traversed and overcome. Accordingly, reconsideration

and withdrawal of the rejection is respectfully requested.

In the Claims:

Claim Rejections – 35 USC 112

At item 3 of the Office Action, the Examiner rejected claims 1-6, 9-16, 19 and 20 under 35 USC 112, first paragraph, because the applicant's disclosure of a cover structure does not reasonably provide enablement for the side cover being contiguous to the rear suspension, since the side cover shown in the figures is not touching or closely adjacent to the rear suspension. The applicant has amended the specification and independent claims 1 and 11 herein to more clearly recite that the side cover is contiguous to the rear portion of the vehicle frame and adjacent to the rear wheel suspension. This recitation is clearly supported in the original disclosure at paragraph 25, which recites that the side cover is contiguous to the main frame; paragraph 24, which recites that the rear suspension is mounted on a lower portion of the main frame; and in Figs. 1 and 2, which show the rear suspension 41 to be contiguous with the main frame 17 and adjacent to the side cover 27. No new matter is added. The specification as amended herein provides reasonable enablement for the independent claims 1 and 11, as amended herein, whereby the rejections under 35 USC 112, first paragraph, are obviated.

Claim Rejections – 35 USC 102

At item 5 of the Office Action, the Examiner rejected claims 1, 4, 6, 11 and 16 under 35 USC 102 (b) as anticipated by Kishi (US 4,678,223). In the rejection, the Examiner states that Kishi discloses a motorcycle with a front mounted radiator 22, radiator cover 42, engine 21, and fuel tank 23, as well as a side cover 45 on each side of the motorcycle which faces the outlet of the radiator and extends between and covers the space between the fuel tank and the engine to

an area near the rear suspension 9.

Applicant's Response

Kishi discloses a cowling device fixed to a motorcycle frame 2 which includes: a single front cowl 42; left and right center cowl members 45 disposed on the respective vehicle sides so as to be continuous in side view with the rear portion of the front cowl 42; an under cowl 43; rear central cowl members 46 disposed on the respective vehicle sides rearward of the center cowl members so as to be continuous in side view with the rear portion of the center cowl members; and a single rear cowl member 44 (FIG. 2). The Examiner refers to left and right center cowl members 45 to correspond to the claimed side cover, which are disclosed as covering the sides of the engine 21, including front and rear cylinders 34, 35 as well as front portions of the crankcase 32 (see Fig. 1).

The applicant has amended independent claims 1 and 11 herein to more clearly distinguish the applicant's invention from that disclosed by Kishi. In particular, claim 1 is amended herein to recite that the side cover extends the side cover extends only between a lower side of the fuel tank and an upper side of the engine. This is quite different from the disclosure of Kishi, who teaches a side cover 45 which covers the sides of the engine 21 (col. 4, lines 5-11). In addition, claim 11 is amended herein to recite the particulars of the shape of the side cover. That is, claim 11 now recites that the side cover comprises an upper surface curved convex substantially upwardly and extending over the longitudinal length of the side cover, a side surface curved concave inwardly and underlying the upper surface, and a front surface. The shape of the side cover, as recited in amended claim 11, is not suggested or disclosed by Kishi.

Because claims 1 and 11, as amended herein, recite side cover features of size and shape which are not anticipated by the disclosure of Kishi, reconsideration and withdrawal of the rejections is respectfully requested. In addition, reconsideration and withdrawal of the rejections

of claims 4, 6 and 16, which depend from claims 1 and 11 respectively and thus also avoid rejection, is also requested.

At item 6 of the Office Action, the Examiner rejected claims 1, 4, 6, 9-11, 16, 19 and 20 under 35 USC 102 (b) as anticipated by Kohama (US 4,818,012). In the rejection, the Examiner states that Kohama discloses a motorcycle with a front mounted radiator 10, radiator cover 20, engine 9, and fuel tank 16, as well as a side cover 21 on each side of the motorcycle which faces the outlet of the radiator and extends between and covers the space between the fuel tank and the engine to an area near the rear suspension 5. The Examiner further states that the side covers have a convex upper portion along wall 21b and concave lower portion 21c (Fig. 4).

Applicant's Response

The applicant respectfully disagrees with this rejection. Kohama discloses a motorcycle having a front cover 20 and a pair of right and left covers 21. The front cover covers the front part of the motorcycle frame as well as both sides, and includes openings 22 on both sides facing the engine 9. The right and left covers 21 are removably attached to the front cover 20, and are used to close the openings 22. As seen in the horizontal sectional view of Fig. 5, the front cover 20 is a generally U-shaped body which opens rearward. Kohama discloses that the front cover includes an air inlet port (col. 2, lines 62-64), and that the right and left covers 21 include an air outlet port 24 formed on the front part 21a thereof. The right and left covers are formed to be widest in the vicinity of the front cover 20 (see part 21a), and include a narrow portion 21c provided in the vicinity of the rider (see part 21c) and a bulbous part 21d, disposed at a rear portion thereof, is disposed in the vicinity of the rear wheels.

The applicant respectfully disagrees that Kohama discloses radiator cover (front cover 20) covering the radiator and having an air discharge port for discharging air from the radiator

rearwardly of a vehicle body, as claimed, since Kohama clearly discloses the discharge ports 24 formed in the side covers 21 (see 21a, Fig. 5). The applicant respectfully disputes a broad interpretation of the radiator cover of Kohama in which the open rear end of the radiator cover correspond to the claimed exhaust ports, since the term port is commonly understood and defined to be an opening in a wall. The applicant respectfully submits that a lack of a wall does not comprise an opening in a wall.

Moreover, Kohama does not disclose a side cover disposed in a position facing said air discharge port, as claimed. Kohama instead shows the discharge port 24 formed in the side cover itself, rather than in the radiator cover as claimed.

As discussed above with respect to the rejection under Kishi, the applicant has amended independent claims 1 and 11 herein to more clearly distinguish the applicant's invention from the cited art. In particular, claim 1 is amended herein to recite that the side cover extends the side cover extends only between a lower side of the fuel tank and an upper side of the engine. This is quite different from the disclosure of Kohama who teaches a side cover 21 which covers the sides of the engine 9 (col. 2, line 54 – col. 3, line 5, Fig. 2). In addition, claim 11 is amended herein to recite the particulars of the shape of the side cover. That is, claim 11 now recites that the side cover comprises an upper surface curved convex substantially upwardly and extending over the longitudinal length of the side cover, a side surface curved concave inwardly and underlying the upper surface, and a front surface. The shape of the side cover, as recited in amended claim 11, is not suggested or disclosed by Kohama who teaches a vertically extending convexity at 21b, a vertically extending concavity at 21c, and a second convexity at 21d which is disposed only at the lower rear of the cover.

Because claims 1 and 11, as amended herein, recite side cover features of size and shape which are not anticipated by the disclosure of Kohama, reconsideration and withdrawal of the

rejections is respectfully requested.

As regards claims 4, 6, 9-10, 14, 16 and 20, the applicant respectfully disagrees with the rejection of these claims for the reasons discussed above with respect to claims 1 and 11, from which these claims depend. Because Kohama fails to anticipate the applicant's invention as recited in the independent claims 1 and 11, reconsideration and withdrawal of the rejection of the dependent claims is respectfully requested.

As further regards claims 9, 10 and 20, the applicant disagrees that Kohama discloses side covers having the claimed shape. In particular, Kohama does not disclose a side cover having an upper surface curved convex substantially upwardly, as claimed. Although the applicant agrees that Kohama shows a side cover 21 having a convex upper portion along wall 21b, the disclosed convexity is not oriented to be substantially upward, as claimed. Rather, the convexity 21b of Kohama is substantially lateral relative to the motorcycle, and corresponds to the transition between the wide front portion 21a and the narrow mid portion 21c. Although Kohama discloses a second convex portion at 21d, this portion is located at a lower rear portion of the side cover, and thus cannot be considered to correspond to the claimed upper surface. In addition, the applicant submits that the side cover of Kohama does not have a front surface, as claimed, but instead terminates at an edge. As regards claim 10, the applicant disagrees that Kohama discloses the claimed crest portion at the boundary between the upper and side surfaces. Rather, Kohama merely shows the lateral oriented convexity (21b) at the boundary between a wide front portion 21a and the narrowed mid portion 21c

At item 7 of the Office Action, the Examiner rejected claims 1-6, 9-16, 19 and 20 under 35 USC 102 (e) as anticipated by Kofuji (US Patent Application Publication

2004/0036250). In the rejection, the Examiner states that Kofuji discloses a motorcycle with a front mounted radiator within radiator cover 41, and that a side cover (unnumbered) is also shown in Fig. 1 behind the radiator cover 41 and between fuel tank 14 and engine 9. The side cover has a convex upper portion and a concave lower portion, and a crest therebetween.

Applicant's Response

Kofuji discloses a link-type front suspension device for a motorcycle. Although Fig. 1 of Kofuji is substantially similar to Fig. 1 of the applicant, the applicant notes that Kofuji does not describe an air discharge structure or cowlings of any kind within the disclosure, and more importantly, no such structures are claimed therein.

The applicant has included herein a certified English language translation of the priority document whereby the applicant's claim to priority under 35 USC 119 is perfected. The applicant disagrees that the disclosure of Kofuji, filed on August 22, 2003 is an anticipatory reference since the applicant's disclosure pre-dates it per the applicant's priority date of April 1, 2003.

Claim Rejections – 35 USC 103

At item 10 of the Office Action, the Examiner rejected claims 2, 3, 5, 12 and 13 under 35 USC 103 (a) as being unpatentable over Kishi (US 4,678,223). In the rejection, the Examiner states that Kishi shows the side cover enclosing a substantial portion of the engine, but is silent regarding an engine control or ignition unit. However, these elements are old and well known and normally required for operation of the engine. It would have been obvious to provide an ignition or engine control unit near the engine, below the side plate, in order to maintain engine components together.

Applicant's Response

The applicant respectfully disagrees with the rejections of claims 2, 3, 5, 12 and 13 for the reasons discussed above with respect to claims 1 and 11, from which these claims depend. Because Kishi fails to anticipate the applicant's invention as recited in the independent claims 1 and 11, reconsideration and withdrawal of the rejection of the dependent claims is respectfully requested.

Other Matters

Claims 10 and 20 are amended herein to correct an informality in which the word "comprising" was inadvertently omitted from between the terms "side cover" and "a crest portion". Correction of claims 10 and 20 provides a grammatically correct claim, and no new matter is added by this amendment.

Conclusion

Applicant has overcome the rejections set forth in the Office Action; and moreover, applicant respectfully submits that the invention defined by each of the present claims is clearly, patentably distinct over all of the references of record.

The application is now believed to be in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner is not fully convinced of all of the claims now in the application, applicant respectfully requests that the Examiner telephonically contact applicant's undersigned representative to expeditiously resolve prosecution of the application.

Favorable consideration is respectfully requested.

Respectfully submitted,



Customer No. 21828
Carrier, Blackman & Associates, P.C.
24101 Novi Road, Suite 100
Novi, Michigan 48375
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William Blackman
Attorney for Applicant
Registration No. 32,397
(248) 344-4422

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